

- Resellers already have the option of obtaining interconnection through LEC facilities. (4)
- Switch-based resale would generate economic and technical costs without producing any benefits for facilities-based carriers who have been the true innovators and investors in the wireless infrastructure. (5)

IN-FLIGHT PHONE CORPORATION

Interest: 800 MHz air-ground service provider.

CMRS-to-CMRS Interconnection:

- **Need for regulatory mandate**
 - Opposes mandate for air-ground licensees. (3)
 - There is no business reason for any air-ground licensee to connect another licensee's air-ground network. Each has its own nationwide technologically incompatible network. (3)
 - There is no business reason for any other CMRS provider to connect with an air-ground network. Amount of air-ground traffic transfer to CMRS licensee via direct connection would be too small because most calls from aircraft are to numbers outside that licensee's coverage area. (3-4)
 - Even if direct interconnection made economic sense, air-ground licensee would grant request on reasonable terms since industry is highly competitive. (4)

Roaming:

- Opposes roaming requirement for 800 MHz air-ground licensees because already provides nationwide service. (4-5)
- Even if there were a regional air-ground licensee, technological incompatibility would make roaming rule infeasible. (5)

CMRS Resale:

- **Applicability of requirement; excluded services**
 - Opposes requirement for air-ground licensees. (5)
 - Resale of air-ground service is uneconomic. Reseller would have to invest a lot in CPE, which is custom-made for each provider. Reseller must also get consent of both airline and FAA. (5-6)

- Air-ground market is fully competitive. (6)
- Rule would not help new licensees begin service before completing construction of their own networks. All three air-ground licensees have already fully built their networks, and Commission does not anticipate issuing more licenses. As for other CMRS licensees, air-ground service is not substitute for any other CMRS service. (6)
- Rule would create significant regulatory burden on Commission to establish service pricing because resale would not be economic unless air-ground licensees offered service on bulk-discount basis, which they do not now do. (7)
- When Commission mandated air-ground resale in the past, competitors chose instead to build their own networks. (7-8)

INFORMATION TECHNOLOGY ASSOCIATION OF AMERICA

Interest: Trade association of computer software and services industry.

CMRS Resale

- **Applicability of requirement; excluded services**
 - Mandate liberal and general resale requirement. (3)
 - Resale adds value to telecommunications by extending services to new clientele and satisfying niche markets. (3)
 - Interest in discouraging price-discrimination by facilities-based CMRS carriers applies to wireline, cellular and other CMRS services equally. (4)
 - All requests for relief from resale obligation should be given close scrutiny. Commission should have a strong presumption in favor of resale, granting relief only for providers with insurmountable and discrete technological obstacles. (5)
 - Just because a market is already competitive or constrained does not justify granting a relief from resale obligation because resellers further enhance competition. (6)

Resale by facilities-based carriers

- Mandate resale to other facility-based carriers; Commission's goal should be to maximize number of efficient operators in given market. (6)
- Facility-based carrier's resale of another facility-based carrier's service indicates only that region has sufficient capacity. (6-7)
- Concern about reduced build-out already addressed by Commission's build-out requirements for new CMRS systems. (7)
- Allowing resale by facility-based carriers will stimulate rather than impair competition because carriers will not be forced to make potentially uneconomic investments that would increase their chance of failure. (7)

E.F. JOHNSON COMPANY

Interest: Designer and manufacturer of radio and specialty communications products for commercial and public safety use.

CMRS-to-CMRS Interconnection:

- **Need for regulatory mandate**
 - Proposing direct interconnection arrangements between CMRS providers is premature. (3)
 - CMRS marketplace will effectively regulate interconnection arrangements once technically feasible. Arrangements should be established through good faith negotiation. (3)
 - Supports strong Commission policy position favoring interconnection among CMRS networks. (3)
 - Commission must prevent technical impediments to providers offering CMRS-to-CMRS interconnection. Equipment manufacturers should have reasonable access to proprietary signaling protocols. Manufacturers should be encouraged to negotiate mutual arrangements for use of intellectual property rights with respect to a common interface. Commission should intercede if voluntary negotiations fail. (4)
 - Interconnectivity will promote customer flexibility and availability of services. Customers should be able to communicate, on their equipment, on any available CMRS network. All technically and economically feasible interconnection/interoperability requests should be considered "reasonable." (4-5)

CMRS Resale:

- **Applicability of requirement; excluded services**
 - Requirement should not be extended to all CMRS providers. (2)
 - Requirement would harm competitiveness of small, facilities-based SMR providers. (2-3)

- Applying requirement to all CMRS licensees decreases consumer choice. The mere presence of many varied facilities-based CMRS providers will ensure effective competition and consumer choice; market conditions fail to do so, the Commission may later require resale. (3)

MCI TELECOMMUNICATIONS CORPORATION

Interest: IXC; reseller of CMRS

- Regulatory oversight of interconnection and resale practices of facilities-based carriers with market power is still needed because broadband CMRS market is not yet competitive. MCI will submit reply comments. (2)

MOBILE ONE

Interest Resale provider of cellular and paging services

CMRS Resale:

- **Number Transferability/Portability**
 - The Commission should require number portability. The current lack of portability precludes MobileOne from offering the best available rate. Although two underlying cellular carriers exist, it is infeasible for MobileOne to switch thousands of customers to the less expensive system. (1)
 - Certain consumers cannot "shop the competitive marketplace" because they must change their mobile phone number upon signing up with a different carrier. This lack of transferability prevents the market from becoming truly competitive. (1-2)

MOBILE MEDIA COMMUNICATION

Interest: Mobilemedia Communications is an Arlington, VA-based narrowband PCS licensee.

CMRS-to-CMRS Interconnection: not discussed.

Need for Regulatory Mandate: not discussed.

Preemption of State Requirements: not discussed.

Roaming: not discussed.

CMRS Resale:

Applicability of requirement; excluded services:

- Mandatory Resale is unnecessary for paging. (2)
- Because the FCC has never imposed mandatory resale obligations on paging carriers, paging service has been the most competitive wireless service (cites anecdotal evidence about price war). (3)
- *Ad hoc* resale arrangements, not subject to government oversight, have resulted in extremely low prices to consumers, abundance of choice of carriers, new services, and almost ubiquitous coverage. (3)
- Mandatory resale obligations will harm new narrowband PCS licensees and the provision of service to the public. (5)
- The narrowband PCS market, which has never been dominated by a monopoly, is fundamentally different from the local exchange, long distance, and cellular business, which have historically been controlled by monopolies in need of regulation. (6).
- The FCC could impose resale at some future date should it find that competition did not develop as envisioned. (6).

Resale by facilities-based competitors:

- There is no need for facilities-based competitors to be guaranteed air time on other systems. (7).

- Mandatory resale requirements would assist large carriers such as AT&T Wireless in engaging in anti-competitive activities, such as demanding large blocks of airtime at the lowest discount rate from smaller competitors, leaving the smaller competitors without enough remaining airtime to sell for full (7).

Switch Interconnection by resellers: not discussed.

Number Transferability/ portability: not discussed.

ANDREW M. MOLASKY

Interest: Owner of a cellular resale company

CMRS Resale:

- **Number Transferability/Portability**
 - The Commission should require number transferability. Transferability is essential to the survival of small resellers of cellular services. Such resellers are currently suffering because of discriminatory practices by carriers. (1)

NATIONAL TELEPHONE COOPERATIVE ASSOCIATION (NTCA)

Interest: Association of small LECs in rural areas and small towns.

CMRS-to-CMRS Interconnection:

- **Need for regulatory mandate**
 - Opposes mandate as premature. Market forces should determine interconnection arrangements. CMRS industry will have multiple providers and should not have requirements developed for industry with single providers. (1-2)
 - LEC investment in CMRS providers will not cause anticompetitive conduct. (2-3)
 - Most traffic is and will likely be CMRS-to-landline rather than CMRS-to-CMRS. (3)
 - Small LECs will not dominate CMRS market through interconnection offerings. CMRS providers can use neighboring LECs or other local transport and landline facilities provided any small LEC refuses interconnection. (2-3)
 - Market is competitive. If CMRS-to-CMRS becomes more efficient than CMRS-to-LEC-to-CMRS, then LEC-affiliated CMRS providers will change to CMRS-to-CMRS. (3-4)
 - Rural CMRS providers do not have market power. They do not dominate the geographic market and must follow market trends of urban providers. They should not be penalized for being the only carriers committed to serving areas in which few other competitors are interested. (4)
 - Small LECs have little opportunity or market power to influence design or evolution. No special requirements should be adopted for small-LEC-affiliated providers. (4)

CMRS Resale:

- **Applicability of requirement; excluded services**
 - Resellers should be treated the same as other similarly situated customers. (5)
- **Resale by facilities-based competitors**
 - Supports flexible, phased removal of requirement, considering relative level at which provider is deemed to be facilities-based competitor. (5)
- **Switch interconnection by resellers**
 - Requirement to interconnect with resellers' switches would result in redundant costs without benefiting customers. (5)
 - Resellers should not get special treatment over facilities-based providers, for which Commission has concluded market forces will determine interconnection terms. (5-6)

NATIONAL WIRELESS RESELLERS ASSOCIATION

Interest: National association of wireless service providers, formerly known as the National Cellular Resellers Association ("NCRA").

CMRS-to-CMRS Interconnection:

Need for Regulatory Mandate:

- CMRS providers, like every other common carrier covered by the Communications Act, have a duty to interconnect upon reasonable request. (4).
- Interconnectivity promotes the public interest because it enhances access to all networks, provides valuable network redundancy, allows for greater flexibility in communications, and makes communications services more attractive to consumers. (15).

Preemption of State Requirements:

- Because the FCC has pre-empted states from checking excessive or discriminatory pricing policies, the Commission should assume greater responsibility in consumer protection. (14).

CMRS Resale:

Switch Interconnection by resellers:

- Ideally, the FCC should adopt specific rules of general applicability requiring the interconnection of a CMRS reseller's switch to a facilities-based CMRS provider's facilities. (4).
- At a minimum, the FCC should require all CMRS providers to interconnect with resellers upon reasonable request, pursuant to good-faith negotiations. (4)
- Reseller switches in the commercial mobile voice area serve the public interest and are reasonable. (4).
- Under § 332(c)(1)(b) and § 201 of the Communications Act, the FCC is *required* to order specific switch-based resale at the request of any common carrier whenever it finds that such an order is "privately beneficial without being publicly detrimental." (2).

- The type of interconnection sought by cellular resellers is technically feasible. (2).
- The FCC should *not* consider the economic feasibility of interconnection, because the resellers have agreed to bear all direct costs of interconnection. (3), (10).
- If the FCC fails to order switch interconnection, existing statutes and case law will support the claims that resellers seeking to interconnect switches to CMRS carrier networks will bring in court. The FCC should thus order switch interconnection to avoid the needless time and expense of the litigation that would inevitably result from a failure to so order. (3).
- The benefits of resale are enhanced through switched resale. Only switched resale can deliver some important benefits of resale, including:
 - bundling non-CMRS offerings (e.g. cable or interexchange services) with CMRS service. (6-7).
 - customer choice of long-distance carriers without LEC-imposed access/switching fees. (7).
 - "1+" dialing to the customer's IXC rather than "10XXX" access. (7).
- Local CMRS providers have no incentive to interconnect with competitors who would then bypass the local CMRS providers' bottleneck control through the local loop to the IXC, and thus would not do so unless ordered to by the FCC. (7).
- Reseller switches allow the reseller to do customized billing and thus help control fraudulent practices. (7).
- There is no principled distinction between the costs imposed on the FCC, the industry, and consumers by "pure" resellers and switch-based resellers, and the FCC is thus not justified in treating these two categories of reseller differently from each other. (8-9).
- The FCC is not supposed to consider the regulatory costs imposed on the FCC when deciding what rules would best serve the public interest. (9).

- Because consumers need not purchase service from resellers, any risk and associated with switch-based resale lies wholly on the reseller, not the consumer. (13).
- Permitting switched resale is not inconsistent with a policy of refusing to general interconnection requirements. (16).
- Permitting switched resale is an important vehicle to achieve a degree of interconnectivity among CMRS providers who lack or refuse to allow direct interconnection to other CMRS licensees. (16).
- The potential detriment from allowing facilities-based carriers to interconnect and resell other CMRS services because it may discourage investment in a build-out of licensed facilities is inapplicable to pure resellers who are without licensed spectrum. (16-17).
- Every reseller customer produces profit for the carrier upon whose system a call is transported. (17).

Number Transferability/portability:

- Number portability for CMRS resellers should be adopted to promote competition in the CMRS marketplace by enhancing consumer choice. (18)
- Consumers resist transactions which force them to change their phone number. (18).
- This resistance prevents consumers from obtaining optimal service when the provider who could otherwise best serve a consumer cannot offer that consumer the opportunity to keep his/her phone number. (18).
- Number portability for CMRS resellers would assist resellers in obtaining more competitive resale agreements. (18).
- In the interexchange industry, where resale has enjoyed great success, subscribers are not forced to surrender their landline or wireless phone number when a reseller switches their long distance service to another carrier. (19)

NEW PAR

Interest: Nonwireline cellular service provider.

CMRS-to-CMRS Interconnection:

- **Need for regulatory mandate**
 - Mandate is unnecessary. There is no carrier with bottleneck control or scarcity of carriers. Competitive market forces will determine interconnection arrangements and reliable service and rates naturally. (2-5)
 - All CMRS end users can currently access all other public network end users via interconnection with local LECs. (3-4)
 - Opposes PCIA and APC's proposed guidelines. There is no § 201(a) duty to interconnect. Dominant/nondominant classification does not suit competitive CMRS market. (6-8)
 - Traditional antitrust analysis does not warrant mandate. Because cellular carriers lack upstream market power, downstream analysis of relevant product and geographic market is unnecessary. (8-9)
 - Cellular carriers do not participate in an interconnection market, having chosen indirect interconnection as more economically feasible, and therefore cannot exercise market power. (9-10)
 - Even if cellular carriers do participate in an interconnection market, relevant product market includes interconnection through landline LECs, because it is reasonably interchangeable with CMRS-to-CMRS interconnection. Relevant geographic market is operating territory of carrier with which a CMRS provider seeks interconnection. Thus cellular carriers can only have a small market share. (9-12)
 - Most calls need interconnection with landline LECs. Denial of CMRS-to-CMRS interconnection would affect few CMRS-originated calls. (10-11)

- There can be no anticompetitive conduct under essential facilities doctrine because all CMRS providers can interconnect through the landline LEC, and cellular carriers have legitimate business reason for denying direct interconnection. (13-15)
- Commission should clarify that formal complaint process should not be used to resolve initial interconnection requests. (15-17)
- **Preemption of state requirements**
 - Inconsistent state regulations must be preempted. Congress wants nationwide CMRS regulatory framework. Jurisdiction is inseparable because many regional cellular systems and MTA/BTA boundaries cross state lines. (17-19)

Roaming:

- Market forces should be allowed to drive development of cross-service roaming arrangements. Competition will control rates. (21)
- Since CMRS technology is developing so rapidly, roaming regulations will quickly become outdated and hinder innovation. (21)
- Cellular industry has developed IS-41 protocol without Commission mandate. (21)

CMRS Resale:

- **Applicability of requirement; excluded services**
 - Regulatory parity requires that requirement apply to all CMRS providers. (22)
- **Resale by facilities-based competitors**
 - Obligation of resale to another facilities-based provider should survive one year after license grant to such provider. (22-23)
- **Switch interconnection by resellers**
 - Cellular licensees should not be required to offer reseller switch interconnection. (24)

- Resellers have no § 201(a) or § 332(c)(1)(B) right to physical interconnection with facilities-based cellular networks. (24)
- Even if facilities-based CMRS networks are required to interconnect, reseller-switch interconnection is not required because resellers have no network needing connection. (24-25)
- Resellers are trying to become quasi-facilities-based carriers without the investment or risks of network construction. They already have all necessary connections through the facilities-based licensees whose service they resell. (25-26)
- Duplication of carriers' switching functions causes operational problems, inefficiencies and added costs, leading to higher subscriber costs. (26-27)
- **Number transferability/portability**
 - Opposes mandate in this proceeding due to technical complexity. Supports rulemaking dedicated solely to number transferability. (23-24)

NEXTEL COMMUNICATIONS, INC.

Interest: Provider of SMR and wide-area SMR services.

CMRS-to-CMRS Interconnection:

- **Need for regulatory mandate**
 - Opposes mandate as premature. (2)
 - Providers can interconnect through PSTN. (3)
 - Market will ensure direct interconnection when economically and technologically feasible. (3)
 - Commission can review complaints under §§ 201 and 202 of the Act. (4)
- **Preemption of state requirements**
 - Inconsistent state laws must be preempted. (4)

Roaming:

- Opposes roaming mandate at this time. Market will determine best roaming methods. (5-6)
- Industry standards body should consider technical feasibility, which involves differences among air interfaces, development of user-friendly dual mode and dual band handsets, and IS-41 and GSM MAP interoperability. Opposes AMPS standard because would encourage continued use of analog. (6)
- Physical interconnection is necessary to prevent fraud. (7)
- Roaming requires access to database information. But extent of access depends on extent of functionality to be provided customers. Requiring unbundling of access or interconnection to intelligent network services will discourage CMRS providers from developing and offering their own advanced services. (7-8)

CMRS Resale:

- **Applicability of requirement; excluded services**
 - Mandated resale is unnecessary in competitive marketplace. Unlike when resale was mandated in the past, there is no bottleneck provider or duopoly licensee with a "head-start." (8-9)
 - As CMRS marketplace becomes more diverse and fully competitive, resale obligation should be phased out for all CMRS providers. (9)
 - Since CMRS carriers are no longer subject to regulated rates and government-mandated rates of return, they will decrease their prices as more competitors enter the market, decreasing resellers' profit. Mandated resale would create an artificial resale market. (9-10)
 - Mandated resale would discourage development of new products and services and encourage cloning of existing services, contrary to Commission's PCS goals. PCS providers who resell cellular services during build-out may develop a cellular-like service. PCS providers will invest less and bid less in the auctions to account for mandated resale. (10)
- **Resale by facilities-based competitors**
 - Mandating resale would discourage entry of new facilities-based competitors, and thus decrease consumer choice and price competition, because it may be cheaper for potential CMRS competitors to resell capacity than develop their own infrastructure. (11)
 - Nextel, a new wide-area SMR provider, would be particularly burdened by mandated resale. Resale would threaten Nextel's ability to migrate customers from analog to digital, control its system and users to optimize service, and manage co-channel use of SMR frequencies. Also, resellers may not be able to give necessary customer education. (15)
- **Switch interconnection by resellers**
 - Mandated switch-based resale is unnecessary and technically problematic. (16)

- **Number transferability/portability**
 - Number portability requirement is technically problematic.
Commission should leave issue to industry standards bodies. (14)

NYNEX

Interest: Telephone company

CMRS-to-CMRS Interconnection:

- **Need for regulatory mandate**
 - It would be premature to require CMRS providers to furnish interstate interconnection to other wireless providers. Market-driven, private interconnection agreements between CMRS providers will emerge to respond to demand. (4)
 - Neither market power nor affiliation should be used as dispositive factors by themselves to determine whether a refusal to interconnect is the result of anticompetitive motives because anticompetitive motives may exist without either factor being present. (5)
 - Interconnection requirements imposed through Section 201 of the Communications Act are enough. (5)
 - Interconnection can be achieved either through a wireless carrier or a landline LEC, so mandatory interconnection requirements are not needed. (5)
 - There is no customer demand for CMRS-to-CMRS interconnection arrangements. (5)

Roaming

- Roaming is an essential feature of any wireless service offered; however, cellular carriers should not be required to interconnect with PCS providers within one year of the date that an interconnection request is received. (7)
- Market pressures from customer demand will ensure that roaming agreements are forged between CMRS providers. (7)
- A rule that cellular providers provide unbundled access to their databases is likely to have the anticompetitive, economically unsound result of deterring some wireless providers from investing in their own network infrastructure. (7)

CMRS Resale

- **Resale by facilities-based competitors**
 - Resale requirements for all CMRS providers should be adopted, modeled after the rules that were adopted to govern the resale of cellular services, meaning the resale requirements should not go beyond the 5-year build-out period for PCS licensees. Such a policy would promote competition between CMRS providers and avoid interfering with the incentives that encourage providers to build in a prompt and efficient manner. (8)
 - The reseller switch requirement should not be imposed upon CMRS providers at this time. The existence of competition will provide resellers with opportunities for alternate arrangements. (8)

PACIFIC TELESIS/PACIFIC BELL MOBILE SERVICES

Interest: Provider of commercial mobile services

CMRS-to-CMRS Interconnection:

- **Need for Regulatory Mandate**
 - A general interconnection requirement may not be necessary at this time. Rapidly changing technologies make interconnection a difficult and costly proposition, and the § 208 complaint process permits the Commission to monitor interconnection issues. (1-2)
 - Any future interconnection requirement should be imposed only if warranted by market power analysis. (2)
 - The Commission should carefully evaluate complaints regarding denials of interconnection. LEC investment in or affiliation with a CMRS provider should not be considered when determining the reasonableness of a denial of interconnection. (2-3)

Roaming:

- The Commission should mandate that PCS providers receive fair and non-discriminatory access to cellular out-of-territory networks at any time and to cellular in-territory networks during a ten year build-out period. Such a mandate will help PCS entrants compete against cellular companies and will encourage investment. (3, 6)
- § 22.901 of the Commission's rules will not promote roaming unless cellular providers have an obligation to enter into contractual arrangements with PCS providers under favorable terms. (4)
- Roaming is essential to the development of mobile telephone communications. Customer demand for roaming capabilities is high, and without the ability to roam PCS providers will be limited to offering inferior "island" services. (4-5)
- Ubiquitous coverage will be impossible without roaming requirements because 1) PCS providers will need several years to complete their wide area network; and 2) cellular companies might create a blockage to out-of-territory roaming in order to maintain a competitive advantage. (5-6)